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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
CELLCO PARTNERSHIP d/b/a)
BELL ATLANTIC MOBILE)
)
Petition for Designation as an)
Eligible Telecommunications Carrier)
)

CC Docket No. 96-45
FCC 97-419

COMMENTS OF AT&T CORP.

Pursuant to the Commission's Public Notice, DA 99-2544 (released November 16, 1999), AT&T Corp. ("AT&T") submits these comments on the petition for designation as an eligible telecommunications carrier ("ETC"), filed by Cellco Partnership d/b/a Bell Atlantic Mobile ("BAM") in the above-entitled proceeding on September 8, 1999. The Commission should grant BAM's Petition, which demonstrates that BAM meets all of the criteria for designation as an ETC pursuant to Section 214(e)(1) for Delaware and parts of Maryland. As BAM also shows, the FCC has jurisdiction under Section 214(e)(6) to act in this case.

I. THE COMMISSION HAS JURISDICTION OVER BAM'S PETITION

Typically, a carrier presents a request for ETC designation to a state commission pursuant to Section 214(e)(2). When a carrier is not subject to the jurisdiction of the relevant state commission, however, the carrier may petition the Commission directly:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall

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upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law.^{1/}

In this case, BAM is seeking ETC designation in two states, Delaware and Maryland, in which, according to BAM, the commissions do not have jurisdiction over providers of cellular telephone service.^{2/} In Delaware, the public service commission has jurisdiction over any “public utility,” which is defined to exclude providers of cellular telephone service.^{3/} Another Delaware statute states that the commission “shall have no jurisdiction over the operation of telephone service provided by cellular technology”^{4/} Similarly, in Maryland a “cellular telephone company” is excluded from those “public service companies” over which the commission has jurisdiction.^{5/} Because the relevant state commissions lack jurisdiction over providers of cellular service, the Commission is required to act on BAM’s petition for ETC status under Section 214(e)(6).

II. BAM MEETS THE CRITERIA FOR ETC DESIGNATION

When the Commission has jurisdiction, Section 214(e)(6) provides that the Commission “shall” designate the petitioning carrier as an ETC if it meets the requirements set forth in Section 214(e)(1). BAM’s petition shows that it satisfies the Section 214(e)(1) criteria.

^{1/} 47 U.S.C. § 214(e)(6).

^{2/} BAM meets the Section 214(e)(6) threshold requirements of being a common carrier that provides telephone exchange service and exchange access. BAM Petition at 5-6.

^{3/} 26 Del. Ann. Code § 102(2).

^{4/} 26 Del. Code Ann. § 202(c).

^{5/} Md. Ann. Code, Public Utility Companies Article, §§ 1-101(p) and 1-101(bb).

Under Section 214(e)(1), a party seeking universal service funding must “offer the services that are supported by Federal universal service support mechanisms . . . , either using its own facilities or a combination of its own facilities and resale of another carrier’s services . . . and advertise the availability of such services and the charges therefor using media of general distribution.”^{6/} BAM’s petition demonstrates that it offers voice-grade access to the public-switched network; single-party service or its functional equivalent; access to emergency services, operator services, interexchange services, and directory assistance; and all of the other services supported by universal support mechanisms.^{7/} BAM also notes that it will offer its universal services through its own facilities, and will advertise their availability and cost using “media of general distribution.”^{8/} BAM thus meets the requirements of Section 214(e)(1), and the Commission must designate it an ETC pursuant to Section 214(e)(6).

^{6/} 47 C.F.R. § 214(e)(1).

^{7/} BAM Petition at 8-12.

^{8/} Id. at 12. In addition, BAM states that it offers service options in which subscribers pay a flat fee and obtain a certain number of minutes of local usage at no additional charge. Id. at 9.

CONCLUSION

Because the Commission has jurisdiction over this matter pursuant to Section 214(e)(6), and BAM's petition shows that it meets the requirements of Section 214(e)(1), AT&T urges the Commission to grant expeditiously BAM's petition for designation as an ETC.

Respectfully submitted,

AT&T CORP.

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CERTIFICATE OF SERVICE

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